

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

.....	X	
SECURITIES INVESTOR PROTECTION	:	
CORPORATION,	:	
	:	
Plaintiff,	:	Adv. Pro. No. 08-1789 (BRL)
	:	
v.	:	SIPA LIQUIDATION
	:	
BERNARD L. MADOFF INVESTMENT	:	(substantively consolidated)
SECURITIES LLC,	:	
	:	
Defendant.	:	
.....	X	
In re:	:	
	:	
BERNARD L. MADOFF,	:	
	:	
Debtor.	:	
.....	X	

**DECLARATION OF RICHARD A. KIRBY IN SUPPORT OF  
BLUMS' OBJECTION TO TRUSTEE'S PROPOSED SCHEDULING ORDER CHANGES FOR  
PROFIT WITHDRAWAL MOTION**

I, Richard A. Kirby, hereby declare as follows:

1. I am a partner at Baker & McKenzie, LLP. My firm serves as counsel to Dr. Joel Blum and Dr. Norman Blum, who are among the group of "Participating Customers" in the Trustee's Profit Withdrawal Motion in the above-captioned proceeding. I am authorized to make this Declaration on the Blums' behalf and in support of their objections to the Trustee's request to extend the scheduling order.

2. Attached hereto as Exhibit A is a true and correct copy of Dr. Joel Blum's proof of SIPA Claim for account 1B0251 in the face amount of \$4,517,548.89.

3. Attached hereto as Exhibit B is a true and correct copy of Dr. Norman Blum's proof of SIPA Claim with respect to account 1B0201 in the face amount of \$1,027,795.20.

4. Dr. Joel Blum attached to his SIPA Claim examples of the withdrawal requests he made when he sought to actually withdraw funds or transfer money from one account to another. Each was for specific round numbers on clear instructions. Likewise, the Trustee has produced other examples of such requests by Norman Blum. True and correct copies of such requests are attached as Exhibit C, which are excerpts from a production by the Trustee Bates-numbered as AMF00157088 and AMF00157093–AMF00157095.

5. The Trustee has produced materials indicating that he has provisionally elected to evaluate the SIPA claims at \$83,795 and \$27,053, respectively. Attached hereto as Exhibit D is a true and correct copy of excerpts from the Supplemental Expert Report of Matthew B. Greenblatt, CPA/CFF, CFE Senior Managing Director FTI Consulting, Inc., wherein he calculates the impact of the profit withdrawal motion on Blum accounts).

6. The Blums held four Madoff Securities accounts, two of which they each managed on behalf of themselves and two of which related to their late parents. These accounts all had "PW" transactions. In four separate Blum-related accounts, the Trustee has identified 1) 73 PW transactions totaling \$180,765 (account 1B0034); 2) 83 transactions totaling \$538,430 (account 1B0036); 3) 28 transactions totaling \$122,244 (account 1B0115); and 4) 138 PW transactions totaling \$1,397,956 (account 1B0033). Attached hereto as Exhibit E is a true and correct copy of portions of Exhibit 3 to the Supplemental Expert Report of Matthew B. Greenblatt, CPA/CFF, CFE Senior Managing Director FTI Consulting, Inc.

7. One of these accounts, account 1B0034 was transferred through 1B0035 to account 1B0190, the subject of the ongoing adversary proceeding, in which the Trustee seeks to

clawback from Dr. Norman Blum \$182,096 for so-called fictitious profits, under Section 548(a)(1(A).

8. Dr. Joel Blum and Dr. Norman Blum are “Participating Claimants” affected by the Trustee’s Profit Withdrawal Motion. As part of the Trustee’s Profit Withdrawal Motion, the Blums were notified that the adjudication of their SIPA Claims – including the claim for the account at issue in the adversary proceeding – was intertwined with the Trustee’s Motion.

9. Attached hereto as Exhibit F is a true and correct copy of the Declaration of Joel A. Blum, M.D.

10. Attached hereto as Exhibit G is a true and correct copy of the Declaration of Norman J. Blum, M.D.

11. Attached hereto as Exhibit H is a true and correct copy of portions of the Supplemental Expert Report of Lisa M. Collura, CPA, CFE, CFF at Attachments D.21 and D.23

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Richard A. Kirby

Richard A. Kirby

Dated: April 26, 2013  
Washington, D.C.

**CERTIFICATE OF SERVICE**

I certify that on March 29, 2016, I arranged for electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys of record via the CM/ECF system.

s/ Richard A. Kirby  
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